

Remarks

Entry of this amendment, reconsideration of the application and allowance of all claims are respectfully requested. Claims 1-24, 26-47, 49-67, 69 & 70 remain pending.

Initially, Applicant notes that dependent claims 3, 14, 26, 40, 49, 60 & 69 are amended herein to delete the characterization “some of” and substitute therefor either “multiple” (with respect to claim 3) or “at least two of” (with respect to remaining dependent claims at issue). Based on these amendments, withdrawal of the claim objection is respectfully requested.

By this paper, independent claims 1, 15, 28, 29, 30, 41, 51 & 61 are amended to more clearly point out and distinctly claim certain aspects of the present invention. Although Applicant believes that certain of these aspects were clear initially, the claim amendments are submitted in a *bona fide* attempt to further prosecution of the application. Support for the amended language can be found throughout the application as filed. For example, reference page 4, line 14 through page 5, line 15, as well as page 6, line 20 through page 7, line 22 of the specification. Thus, no new matter is added to the application by any amendment presented.

In the Office Action, claims 1-7, 9-14, 30-36, 38-40, 51-57 & 59-60 were rejected under 35 U.S.C. §103(a) as being unpatentable over Matheny et al. (U.S. Patent No. 6,259,446; hereinafter Matheny), and further in view of Ciccone, Jr. et al. (U.S. Patent No. 6,338,149; hereinafter Ciccone), while claims 8, 21, 37, 47, 58 & 67 were rejected under 35 U.S.C. §103(a) as being unpatentable over Matheny and Ciccone, and further in view of Datig (U.S. Patent No. 6,233,545; hereinafter Datig), and claims 15-20, 22-27, 41-46, 48-50, 61-66 & 68-70 were rejected under 35 U.S.C. §102(e) as being anticipated by Matheny. Further, the Office Action appears to reject claim 29 under 35 U.S.C. §102(e) based on Matheny as well. Each of these rejections is respectfully, but most strenuously, traversed to any extent deemed applicable to the claims presented herewith, and reconsideration thereof is requested. (Also, Applicant notes that with respect to claim 28, no rejection is stated in the Office Action. Therefore an indication of allowance of this claim is respectfully requested.)

35 U.S.C. §103(a):

An “obviousness” determination requires an evaluation of whether the prior art taken as a whole would suggest the claimed invention taken as a whole to one of ordinary skill in the art. In evaluating claimed subject matter as a whole, the Federal Circuit has expressly mandated that functional claim language be considered in evaluating a claim relative to the prior art. Applicant respectfully submits that the application of these standards to the independent claims presented leads to the conclusion that the recited subject matter would not have been obvious to one of ordinary skill in the art based on the applied patents. Specifically, Applicant requests reconsideration and withdrawal of the obviousness rejection on the following grounds: (1) the amended independent claims at issue clearly distinguish over the applied art; (2) the Office Action has misinterpreted the teachings of the Matheny patent, thus voiding the basis for the rejection; and (3) the applied patents themselves lack any teaching, suggestion or incentive for their further modification as necessary to achieve Applicant’s recited invention.

Independent claims 1, 30 & 51 (and presumably, claim 28) stand rejected as obvious over Matheny in view of Ciccone. This rejection is believed moot in view of the amended claims presented herewith.

By way of example, Applicant recites a technique for gathering information on a state of a network of computer systems (e.g., claim 1). This technique includes providing at a central location a dictionary file data structure having a plurality of unique inquiries for ascertaining state information on at least one computer system of the network of computer systems. This plurality of unique inquiries is organized into at least one subject group. Each subject group is directed to a different piece of the state information. At least one group of the subject groups has multiple unique records of inquiry. The technique further includes processing the at least one subject group of the dictionary file data structure to accumulate the state information. This processing includes for each group of the at least one group having multiple unique records of inquiry, processing a record of the multiple unique records of inquiry, and if a condition of that record is satisfied, then terminating processing of the group. Otherwise, processing a next record of the multiple unique records of inquiry and continuing until a condition of one record of the multiple records of inquiry is satisfied or all records of the multiple records of inquiry of the group have been processed.

Initially, Applicant respectfully submits that a careful reading of Matheny and Ciccone fails to uncover any discussion or implication of a technique for gathering information on the state of a network of computer systems. Further, a careful reading of these patents fails to uncover any teaching or suggestion of providing a dictionary file data structure having a plurality of unique inquiries for ascertaining state information on one or more computer systems of the network, let alone the provision of such a data file structure at a central location within the network. For at least these reasons, reconsideration and withdrawal of the obviousness rejection to the independent claims at issue based upon Matheny and Ciccone is respectfully requested.

Additionally, Applicant respectfully submits that the Office Action misinterprets the teachings of Matheny as applied to the claims at issue. For example, Applicant recites a dictionary file data structure having a certain form. This form is such that there are a plurality of unique inquiries for ascertaining state information. These inquiries are organized into at least one subject group, with each subject group being directed to a different piece of state information. At least one of the subject groups has multiple unique records of inquiry. A careful reading of Matheny fails to uncover any teaching or suggestion of such a data structure. Specifically, column 1, line 30 – column 2, line 6, as well as column 35, line 64 – column 36, line 3, and FIG. 12, elements 1200-1290, fail to teach or suggest such a dictionary file data structure.

Novelty of the present invention is believed to reside, in part, in the provision of a dictionary file data structure having a plurality of inquiries arranged as set forth in the independent claims. Clearly, no data structure is discussed in Matheny *per se*. The cited lines of Matheny are merely a summary of the invention described therein, wherein an automated menu state processing approach is presented. No arrangement of inquiries in a common dictionary file data structure is set forth. Further, figure 12 of Matheny, and the elements therein, are an example of menu state processing in accordance with Matheny. No express or implicit organization of inquiries into a data structure as recited by Applicant in the independent claims at issue is set forth. For example, in Applicant's independent claims, one group of the at least one subject group has multiple unique records of inquiry. The only record of inquiry in figure 12 of Matheny appears to be element 1240, where a determination is made whether the menu system querying of the command for the enable state is yes or no. Thus, there are not even multiple

unique records of inquiry in Matheny, let alone a dictionary file data structure as recited by Applicant in the independent claims at issue.

Still further, Applicant's independent claims recite processing a record of the multiple unique records of inquiry of the at least one group, and if a condition of the record is satisfied, then terminating processing of the group. Otherwise, processing a next record of the multiple unique records of inquiry, and continuing such processing until a condition of one record of the multiple records of inquiry is satisfied or all records of the multiple records of inquiry of the group have been processed. No similar teaching or suggestion is apparent from Matheny either alone or in combination with Ciccone. Again, the Office Action merely references certain columns of Matheny, as well as FIG. 12, but provides no explanation as to how the Matheny processing could be interpreted as analogous to Applicant's recited processing. Applicant respectfully submits that this is because they are not.

For all the above reasons, independent claims 1, 28, 30 & 51 are believed to patentably distinguish over the art of record. Each of these independent claims has been amended herein to specify that the dictionary file data structure is provided at a central location, and includes a plurality of unique inquiries for ascertaining state information on one or more computer systems of a network of computer systems. These claim amendments are believed to render the prior rejections moot.

Further, Applicant respectfully traverses the obviousness rejection to these claims based upon Matheny and Ciccone as set forth in the Office Action. It is believed that the Office Action misinterprets the teachings of Matheny to the extent deemed applicable to the unique dictionary file data structure recited in Applicant's independent claims, as well as the unique processing approach employing that data structure. Clearly, no dictionary file data structure is expressly discussed in Matheny. Further, the Office Action fails to set forth any explanation as to how such a dictionary file data structure as recited by Applicant would be inherent in the processing of Matheny. It is respectfully submitted that it is the Examiner's burden to initially establish inherency, that is, if that is the basis for a rejection. Further, it is believed that a careful reading of Matheny and Ciccone, as well as the other art of record, fails to provide any teaching, suggestion or incentive for their further modification as necessary to achieve Applicant's recited

invention. For all these reasons, reconsideration and withdrawal of the obviousness rejection to the independent claims at issue is respectfully requested.

The dependent claims at issue in the obviousness rejections are believed allowable for the same reasons as the respective independent claims, as well as for their own additional characterizations. In this regard, Applicant notes that Datig is cited for teaching a rules data base in an ASCII file. Without acquiescing to this characterization of Datig, Applicant notes that a careful reading thereof fails to uncover any teaching or suggestion of the above-noted deficiencies of Matheny and Ciccone when applied against the independent claims at issue. Thus, claims 1-7, 9-14, 28, 30-36, 38-40, 51-57 & 59-60 are believed patentable over the applied art. Reconsideration and withdrawal of the objection based thereon is respectfully requested.

35 U.S.C. §102(e):

The remaining claims (i.e., claims 15-20, 22-27, 29, 41-46, 48-50, 61-66 & 68-70) stand rejected as being anticipated by Matheny. Reconsideration and withdrawal of this rejection is also respectfully requested in view of the claims submitted herewith.

It is well settled that there is no anticipation of a claim unless a single prior art reference discloses: (1) all the same elements of the claimed invention; (2) found in the same situation as the claimed invention; (3) united in the same way as the claimed invention; and (4) in order to perform the identical function as the claimed invention. In this instance, Matheny fails to disclose various aspects of Applicant's invention as recited in amended independent claims 15, 29, 41 & 61, and as a result, does not anticipate (or even render obvious) Applicant's invention.

For example, Applicant recites in these independent claims a method for gathering information on a state of a network of computer systems. This method includes providing at a central location a dictionary file data structure which has a plurality of unique inquiries for ascertaining state information on one or more computer systems of the network. At least one inquiry of the plurality of unique inquiries within the dictionary file data structure includes an instruction which has a result which is automatically output when a condition of the instruction is satisfied. Each result is predefined in the dictionary file data structure itself. The plurality of unique inquiries include at least one of a file check query, a file content check inquiry, an external process check inquiry, or a default inquiry. The technique further includes processing at

least one inquiry of the plurality of inquiries of the dictionary file to accumulate the state information. This processing includes for each instruction process, outputting the result of the instruction from the dictionary file data structure when the condition of the instruction is satisfied. Advantageously, the state information on the at least one computer system includes the outputted results from the dictionary file data structure from satisfaction of the at least one condition. Thus, in Applicant's approach, a centrally located dictionary file data structure is employed where a result from satisfying a condition of an instruction within an inquiry is automatically outputted. Thus, the outputted information structure and data is defined within the dictionary file data structure itself, and does not originate with the one or more computer systems for which the state information is being obtained. This advantageously allows for centralized updating of the inquiries and defined results from conditions within the inquiries being met. No similar dictionary file data structure, or processing approach, is believed taught or suggested by Matheny.

For example, there is no discussion in Matheny of providing at a central location of a network a dictionary file data structure *per se*, let alone providing such a dictionary file data structure which has a plurality of unique inquiries for ascertaining state information on one or more computer systems of the network as recited by Applicant. Still further, Applicant respectfully submits that a careful reading of Matheny fails to uncover any discussion of a dictionary file data structure wherein at least one inquiry of the plurality of unique inquiries within the data structure includes an instruction with a result that is automatically output when a condition of the instruction is satisfied. That is, there is no teaching or suggestion in Matheny of predefining results in a dictionary file data structure wherein the results are automatically output if the corresponding condition of the instruction within the inquiry is satisfied.

In this regard, Applicant notes that the Office Action recites Applicant's original claim language at issue, and then identifies various columns and figures in Matheny that are believed relevant. However, no explanation is provided, and a careful reading of the cited material fails to uncover any teaching or suggestion of relevancy to the claimed invention. Thus, the Office Action is believed to misinterpret the teachings of Matheny, thus voiding the basis of the rejection of the independent claims at issue. A careful reading of Matheny fails to uncover any teaching or suggestion of a dictionary file data structure wherein there are a plurality of unique inquiries for ascertaining state information on one or more computer systems of a network.

Further, a careful reading of Matheny fails to uncover any teaching or suggestion that at least one of these unique inquiries within the dictionary file data structure includes an instruction that has a result that is automatically output when a condition of the instruction is satisfied.

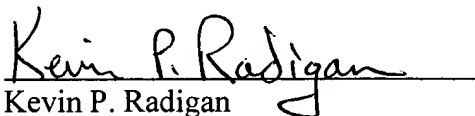
Still further, a careful reading of Matheny fails to uncover any teaching or suggestion of such a result being predefined in the dictionary file data structure. In accordance with Applicant's invention, the centrally defined dictionary file data structure allows for an ability to readily change inquiries, as well as results, without making changes throughout one or more computer systems of the network. No similar approach for gathering information on the state of a network of computer systems is believed taught or suggested by Matheny, or the other art of record.

Thus, reconsideration and withdrawal of the anticipation rejection to the independent claims at issue is respectfully requested. The respective dependent claims are believed allowable for the same reasons set forth above with respect to the independent claims.

Should the Examiner continue to entertain reservations regarding the allowability of any claim presented herewith, Applicant's representative requests the opportunity to interview with the Examiner prior to issuance of a further communication from the Patent Office to obtain further clarification of the Examiner's position with respect to such claims.

All claims are believed to be in condition for allowance and such action is respectfully requested.

Respectfully submitted,


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Dated: May 26, 2005.

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